



U. S. Fish and Wildlife Service

Emergency Designation of Manatee Protection Areas in Florida

Background

Manatees are a federally protected under both the Endangered Species Act and Marine Mammal Protection Act. Currently, collisions with watercraft probably constitute the greatest human-caused threat to the species. Historically, these collisions are responsible for about 25 percent of all manatee deaths and about 80 percent of all human-caused mortality in manatees.

In November 2002, a judge in Florida's 20th Judicial Circuit Court ruled that five State-designated manatee protection zones were unconstitutional due to flaws in the process used to establish the zones. The Florida Fish and Wildlife Conservation Commission subsequently filed its intent to appeal the judge's ruling and were granted a stay of the State zones ruling.

In December 2003, the Lee County Circuit Court of Appeals refused to hear the State's appeal but granted a continuance. In response to the Court's subsequent denial of a stay, the Service announced that it considered these areas inadequately protected. As a result, the U.S. Army Corps of Engineers denied water access facility permits in these five areas.

Issue

The Florida Fish and Wildlife Conservation Commission have recovered **four** manatee carcasses in the affected areas. Subsequent necropsies reveal these animals died of wounds suffered from a boat collision. There have been at least **18** boat-related manatee deaths in these five areas since 1999.

On March 2, the 20th District Court of Appeals in Lakeland, Florida denied the review of the commission's case to overturn the 20th Circuit Court's ruling that five state manatee protection zones in Lee County are unconstitutional. The Commission is assessing its appeal options. As a result of the court's decision and based on the best available data, the Service will exercise its authority under the Federal Endangered Species Act and the Marine Mammal Protection Act, and use an emergency designation to establish the Pine Island-Estero Bay Manatee Refuge.

Status

Each emergency designation is in effect for 120 days. The first such designation will expire August 5, 2004. This continuation will begin August 6 and remain in effect until December 6, 2004. The additional time is necessary to allow for development of the final rule.

These Federal protection areas correspond exactly to the previous State designations in these areas. As part of the process, the Service will conduct a 60-day public comment period from Aug. 6, 2004. In addition, a public meeting is scheduled at the Harborside Convention Hall in Fort Myers on Sept. 8, 2004 from 6:30 to 9:30 p.m.

Questions?

The regulation and additional information on this action is available on the South Florida Ecological Service's web site at verobeach.fws.gov, or may be requested by writing via e-mail to verobeach@fws.gov; by faxing your request to (772) 562-4288; or by letter to USFWS, Attn: MPA Emergency Designation, 1339 20th Street, Vero Beach, FL 32960. If you have specific questions or need special assistance, please contact the South Florida Ecological Services Office at (772) 562-3909.